

8749  
Page  
GAO  
00046

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-191876

DATE: January 4, 1979

MATTER OF: Tymshare

[Protest Alleging That GPO Overstated Minimum Needs]:  
DIGEST:

Protest that user agency's statement of its minimum needs for ordering teleprocessing services from GSA Multiple Award Schedule Contract (MASC) was unduly restrictive is denied where that statement is not shown to be unreasonable and record shows that 13 MASC firms can meet agency requirements.

CNG 00368  
AGC 00178

Tymshare has protested the proposed procurement of teleprocessing services by the United States Government Printing Office (GPO). GPO's requirement includes two teleprocessing applications - the Print Cost Calculating System (PCCS) and the Automated Bids List (ABL). The primary function of the PCCS is to develop a sequence of bidders capable of producing a printed product based upon characteristics described in a print order. The GPO procures much of its printing from commercial sources through the use of multiple-award term contracts. Each term contract describes the operations required to produce and package a printed product. Whenever a standard print order must be processed, the PCCS is used to query the term contract data base and produce a list of potential bidders. The ABL, unlike the PCCS, is used for special, one-time acquisitions. The primary product of the ABL is mailing labels which are placed on bid packages for mailing to individual firms. Additionally, a statistical data base containing all firms invited to bid and firms to which awards are made is created and used by the Central Office for generation of management reports.

The record shows that GPO has been delegated authority to procure, subject to the final approval of the General Services Administration (GSA), teleprocess-

AGC 00017

~~003084~~

ing services from a contractor holding a GSA Multiple Award Schedule Contract (MASC). The procedures for such procurements are contained in Federal Property Management Regulations, Temporary Regulation (FPMR, TR) E-47, August 16, 1976 (Supp. 3, October 13, 1977). Generally, the regulation requires the user agency to establish its requirements; analyze MASC contractors' technical capabilities reflected in their Multiple Award Schedule (MAS) contract price lists; eliminate from consideration those contractors whose equipment will not meet the established requirements; and conduct a cost analysis of the remaining contractors to determine the lowest life cycle costs for the services offered.

In accordance with those procedures, GPO issued a letter dated April 24, 1978, to 34 firms listed on the MASC setting forth GPO's requirements and requesting expressions of interest from firms capable of meeting those requirements.

Tymshare complains that one of the mandatory requirements listed in the request, "Response time between prompts of less than 4 seconds 90% of the time"; overstated the agency's needs. Further, the protester maintains that in any event its guaranteed response time of five seconds, 98 percent of the time is as efficient as the specified four second response time 90 percent of the time. Tymshare bases its position on the premise that under the GPO requirement there is no guarantee in ten percent of the "interactive sessions", while under its scheme interactive users are without a guaranteed response time only two percent of the time. This, in Tymshare's view, outweighs any benefit gained from a four second response.

GPO maintains that the four second response time, 90 percent of the time is critical because any response time greater than four seconds will result in an unacceptable increase in the amount of time required to process a print order on the PCCS system and an invitation for bids on the ABL system. In support of the four second response time GPO states:

"Our current system, with a 3-second response time, requires an average of 5.5 minutes (4 minutes of think, data entry, and print time; and 1.5 minutes of response time) to process a print order on the PCCS system. It requires an average of 5.8 minutes (4.87 minutes of think, data entry, and print time; and .93 minutes of response time) to process an Invitation For Bid (IFB) on the ABL system.

"A system with 5 seconds response time would require 6.5 minutes (an additional 1 minute of response time) to process each print order on PCCS and 6.4 minutes (an additional 37 seconds) to process each IFB on the ABL system. This represents an 18-percent increase for PCCS and an 11-percent increase for ABL."

GPO explains that it has determined it can accept a four-second response time and has so eased its requirements; however, it views an increase to five seconds as unacceptable. GPO also notes that 13 MASC firms are capable of meeting the four second response time requirement and that all MASC vendors were provided with the opportunity to amend their MASC contracts to provide for meeting the requirement.

Concerning Tymshare's position that its response time of five seconds 98 percent of the time is the functional equivalent of four seconds 90 percent of the time, GPO states that a valid comparison of the two would require a "high level of mathematics" and data concerning whatever system would be in use with a five second response time. Tymshare has submitted no such empirical data regarding its system. GPO further points out that while the five second response time 98 percent of the time could favorably compare under certain circumstances with the GPO requirement, the two are "not necessarily equivalent." Moreover, GPO states that a five second response time would increase average terminal usage to more than the effective maximum of 6 hours per day, and that overall, "a 5-second response time will not fulfill our requirements."

An agency's determination as to its minimum needs is not questioned by this Office unless it is shown to have no reasonable basis. A.B. Dick Company, B-190331, May 18, 1978, 78-1 CPD 381. Here, Tymshare argues that GPO has not submitted sufficient documentation to support its position. However, we believe that GPO has sufficiently justified the use of a four second response, 90 percent of the time requirement and that Tymshare has failed to meet its burden of demonstrating that GPO has overstated its minimum needs or unduly restricted competition.

The protest is denied.

*R. M. Kilian*  
Deputy Comptroller General  
of the United States

GAO 00010